

REMARKS

Claims 1-30 are pending in the application. Reconsideration and a withdrawal of the Examiner's rejection are hereby respectfully requested.

Applicant acknowledges that claims 4,5,11,12,20,21,23,24,27 and 28 have been rejected only under the judicially created doctrine of obviousness double patenting. Applicant will submit a terminal disclaimer in due course, and will rewrite these claims in independent form as they appeared as of the date of the office action when the terminal disclaimer is submitted.

Applicant has amended the specification, as indicated above. The amendment to the paragraph of the specification is also being submitted herewith in a non-marked-up, plain text version printed on a separate page herewith, identified as APPENDIX A hereto.

Applicant has amended the claims, as indicated above. The amended claims are also being submitted herewith in a non-marked-up, plain text version printed on separate pages herewith, identified as APPENDIX B hereto.

1. **The Objection to the Disclosure.**

The disclosure has been objected to because the status of the patent application cited on the first page requires updating. This has been remedied by the above amendment to the specification, and the disclosure is now believed to comply with the formal requirements. Accordingly, the objection should be withdrawn.

2. **The Objection to the Drawings.**

The Examiner has objected to the drawings pursuant to 37 CFR 1.83(a) because the Examiner contends that the first and second sets of indicia being on opposite sides of the blade cited in claim 29 must be shown. Applicant respectfully requests reconsideration of this objection. The feature of claim 29 is explained at p. 17 lines 1-4 of the specification. Applicant respectfully objects to the requirement by the Examiner that the subject matter of claim 29 admits of new drawing figures in view of applicant's disclosure in the specification of its measuring device, and in further view of the language appearing on page 17 lines 1-4, which reads:

. . .the ruler or tape described above may have numbers and indicator lines as described above imprinted on both sides of the ruler or tape.

3. The Rejection of Claim 29 Under 35 USC 112.

Claim 29 stands rejected under 35 USC 112 as being indefinite. This rejection is respectfully traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

Applicant has amended claim 29 to change the word "end" to read --and--, thereby remedying this typographical error. Applicant respectfully requests reconsideration and a withdrawal of the Examiner's section 112 rejection.

4. The Examiner's 102(b) Rejection of Claims 1, 22 and 25 Over Ballou or McCully.

Claims 1, 22 and 25 stand rejected under 35 USC 102(b) as being anticipated by US Patent RE 14,947 ("Ballou") or US Patent 2,574,272 ("McCully"). This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

Applicant's present invention is distinguishable over and is not anticipated by the references relied upon by the Examiner. Applicant has amended claim 1 to more clearly and particularly articulate the present intention. Claim 1 recites the feature of "a tab fixed to the free end of the blade for temporarily and removably hooking the free end of the blade to the

first point, said tab extending in a plane perpendicular to the blade in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade." Each of the cited references, namely, Ballou and McCully, fails to disclose the applicant's invention, as disclosed and claimed.

First, turning to Ballou, this reference fails to disclose the applicant's present invention. Ballou provides a device with barbed end which protrudes outwardly from the tape. The Ballou device does not solve the problem which is addressed by the applicant's invention. The applicant's present invention provides a novel and unique measuring device which has "a tab fixed to the free end of the blade for temporarily and removably hooking the free end of the blade to the first point, said tab extending in a plane perpendicular to the blade in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade." With the applicant's present invention, the tab extends in a plane perpendicular to the blade in two directions transverse to the blade which can engage a surface. This facilitates measuring from a point on the surface which the tab of the applicant's invention is engaging. Ballou provides a prong 7 which is "arranged to be inserted into an

object as clearly shown in Fig. 4." (Col. 1 lines 52-55.) Ballou therefore does not anticipate the Applicant's present invention. The Ballou apparatus actually makes accurate measurement more difficult, if not impossible, since it teaches the insertion of a prong. Applicant's present invention provides a tab which engages a surface from which a distance is measured. The Ballou device would yield different measurements depending on the softness of the surface being measured, and how difficult or easy penetration into the surface would be. The applicant's present invention provides a measuring device which facilitates measurement.

Similarly, claim 22 has been amended to also recite the feature along the lines of amended claim 1. Claim 22 recites "a hooking device portion extending in at least two directions to a lengthwise edge of the blade of the measuring tape in a plane perpendicular to the blade of the measuring tape at the free end of the blade when the tab extension is connected to the tab of the measuring tape."

Claim 25 depends from claim 22 and, for the same reasons, is also not taught, suggested or disclosed by Ballou.

For the above reasons, the applicant's present invention is not disclosed by, nor is it taught or suggested by, the Ballou reference.

Second, the Examiner also relies upon McCully. McCully also fails to disclose the applicant's presently claimed invention. McCully discloses a hook (14) which must be unfolded for operation. The hook (14) is disclosed in Fig. 3 having an end (18) for hooking to a surface. However, applicant's present invention claims a "tab extending in a plane perpendicular to the blade in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade." McCully discloses a foldable hook (14) with a tab (18) which hooks a side of the tape (10) to a surface. McCully does not disclose a tab extending in a plane perpendicular to the blade in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade for temporarily and removably hooking the free end of the blade to the first point. The applicant's present invention provides a tab which extends in at least two directions to increase the ability of the apparatus for hooking to a surface. A single tab (18) is disclosed in McCully which is foldable.

Similarly, claim 22 has also been amended as pointed out above, and for the same reasons, the invention recited in claim 22 is also not disclosed by McCully. Claim 25 depends from claim 22, and, accordingly, is also not anticipated by McCully for the same reasons. The applicant's present invention is not taught, suggested or disclosed by the cited references.

For the above reasons, applicant hereby respectfully requests reconsideration and a withdrawal of the Examiner's 102(b) rejections based on Ballou or McCully with respect to claims 1, 22, and 25.

5. The Examiner's 102(b) Rejection of Claims 1, 3, 22 and 25 Over Canfield.

Claims 1, 3, 22 and 25 stand rejected under 35 USC 102(b) as being anticipated by US Patent 5,515,617 ("Canfield"). This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

Applicant's present invention is distinguishable over and is not anticipated by the Canfield reference relied upon by the Examiner. Applicant has amended claim 1 to more clearly and particularly articulate the present invention. Claim 1 recites the feature of "a

tab fixed to the free end of the blade for temporarily and removably hooking the free end of the blade to the first point, said tab extending in a plane perpendicular to the blade in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade." Canfield fails to disclose the applicant's invention.

Canfield, for the same reasons as those set forth above, fails to disclose or suggest the present invention. Canfield discloses a pencil holder (15) which is affixed to a clip (14). The holder (15) carries a pencil (16). The applicant's present invention provides a tab extending in a plane perpendicular to the blade in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade for temporarily and removably hooking the free end of the blade to the first point. Canfield fails to disclose the applicant's present invention as recited in the applicant's claims.

Furthermore, Canfield actually teaches away from the applicant's present intention, since the holder clip (14) disclosed in Canfield is provided with an aligning knob (92). This aligning knob (92) is used for the connection of the holder (15) and clip(14), and further teaches away from the applicant's tab portion

which hooks onto a surface for measuring from a point on the surface to another point. The knob (92) would serve as a point about which to pivot, and thereby lead to inaccurate measurements due to the interference of the knob (92) and the potential for movement.

For the above reasons, the Canfield disclosure fails to disclose, teach, or suggest the applicant's presently claimed invention. Applicant hereby respectfully requests reconsideration and a withdrawal of the Examiner's rejection with respect to claims 1, 3, 22, and 25.

6. The Examiner's 102(b) Rejection of Claims 14-17, 26 and 30 Over Drechsler.

Claims 14-17, 26 and 30 stand rejected under 35 USC 102(b) as being anticipated by US Patent 4,574,486 ("Drechsler"). This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

Applicant's present invention is distinguishable over and is not anticipated by the Drechsler reference relied upon by the Examiner. Applicant has amended claim 14 to more clearly and particularly articulate

the present invention. Claim 14 recites the feature of "a tab fixed to the free end of the blade for temporarily and removably hooking the free end of the blade to the first point, said tab having a planar surface extending in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade." Drechsler does not disclose this feature, and therefore fails to anticipate the applicant's present invention.

Claim 17 has been amended to distinguish the present invention over Drechsler. Claim 17 recites "a removable tab fixed to free end of the blade for temporarily and removably hooking the free end of the blade to the first point." Drechsler does not disclose this feature, and therefore fails to anticipate the applicant's present invention.

Claim 26 has also been amended to recite "a tab fixed to at least one end of said flat material for temporarily and removably hooking an end of said flat material to the first point, said tab having a planar surface extending in at least two directions transverse to a lengthwise edge of the flat material at at least one end of said flat material." Drechsler does not disclose this feature, and therefore fails to anticipate the applicant's present invention.

Claims 15-16, and 30 depend from claim 14 and for the same reasons are neither anticipated by, nor obvious in view of, the Drechsler reference.

Drechsler, for the same reasons as those set forth above, fails to teach, suggest or disclose the applicant's present invention.

For the above reasons, the applicant's present invention is not anticipated by the cited patent references relied upon by the Examiner. The references fail to teach, suggest or disclose the present invention. Applicant's present invention should be patentable over the cited references. Applicant hereby respectfully requests reconsideration and a withdrawal of the Examiner's 102 rejections.

7. The Examiner's 103 Rejection of Claims 2, 6-8, and 29 Over Canfield in view of Drechsler.

Claims 2, 6-8, and 29 stand rejected under 35 USC 103 as being unpatentable over Canfield in view of Drechsler. This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

For the same reasons as those set forth above, applicant's present invention, as recited in claims 2,

6-8 and 29 is not obvious in view of the cited references either alone or when combined. The Examiner relies upon the references for their supposed teaching of certain indicia. However, as pointed out above, Canfield fails to teach, suggest or disclose the present invention, and even if combined with the further reference of Drechsler, the applicant's present invention would still not be taught, suggested or disclosed.

For the above reasons, and the additional reasons set forth herein, applicant's present invention, as recited in the pending claims, is not obvious in view of the references relied upon by the Examiner. Reconsideration and a withdrawal of the Examiner's 103 rejection with respect to Canfield and Drechsler are hereby respectfully requested.

**8. The Examiner's 103 Rejection of Claims 9, 10, and
13 Over Canfield in view of Pinney, Jr.**

Claims 9, 10 and 13 stand rejected under 35 USC 103 as being unpatentable over Canfield in view of U.S. Patent 5,291,664. This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

For the same reasons as those set forth above, applicant's present invention, as recited in claims 9, 10, and 13 is not obvious in view of the cited references either when considered alone or when combined as the Examiner proposes.

The Examiner acknowledges that Canfield is deficient of a teaching of a tab being comprised of a base which is removably insertable into a slot of an extension with the extension extending in two directions transverse to the blade so the extension can be removed from the blade. The Examiner then attempts to use Pinney, Jr. to fill this deficiency.

As pointed out above, Canfield fails to teach, suggest or disclose the present invention, and even if combined with the further reference of Pinney, Jr., the applicant's present invention would still not be taught, suggested or disclosed.

For the above reasons, the applicant's present invention is not obvious in view of the Canfield reference, even when combined with the further reference of Pinney, Jr.

In addition, Pinney Jr. discloses a v-shaped web arranged to form a corner to corner tape measure apparatus which has confronting v-shaped webs. Pinney Jr. is provided for measuring opposed corners of

workpieces, and would not be looked at by one of ordinary skill in the art as a way to modify the Canfield reference. Canfield discloses a tool which is not shown for corner to corner measurements. In fact, it would be inconsistent with the disclosure of Canfield to make the modification proposed by the Examiner, since Pinney, Jr. is a corner to corner measuring device. One of ordinary skill in the art would not have made the combination proposed by the Examiner.

For the above reasons, and the additional reasons set forth herein, applicant's present invention, as recited in the pending claims, is not obvious in view of the references relied upon by the Examiner. Reconsideration and a withdrawal of the Examiner's 103 rejection with respect to Canfield and Pinney, Jr. are hereby respectfully requested.

9. The Examiner's 103 Rejection of Claim 18

Over Drechsler in view of Ballou

Claim 18 stands rejected under 35 USC 103 as being unpatentable over Drechsler in view of Ballou. This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

For the same reasons as those set forth above, applicant's present invention, as recited in claim 18 is not obvious in view of the cited references either alone or when combined. The Examiner's rejection mentions Canfield as well as Drechsler and Ballou. The Examiner acknowledges that Canfield is deficient of a teaching of a tab extending in two directions transverse to the blade. The Examiner then cites Drechsler for a teaching of a tab and Ballou, claiming that Ballou would teach attaching a device above or below an object.

For the above reasons, the applicant's present invention is not taught suggested or disclosed by the combination of Drechsler (even with Canfield) with Ballou.

In addition, the Examiner's proposed combination omits what Ballou actually discloses. Ballou discloses a point (7) which is to be inserted into an object. One of ordinary skill in the art would not look to combine Ballou with Drechsler. The function of the Drechsler device would be destroyed, since Drechsler provides a hook (28) which, unlike Ballou, is not furnished to pierce an object. The cited references therefore, are not properly combinable. In order to make the argument asserted by the Examiner, the Ballou

reference must itself be modified with the teachings and disclosure of the applicant's invention.

Accordingly, this does not make the applicant's present invention obvious and the Examiner's rejection should be withdrawn.

For the above reasons, and the additional reasons set forth herein, applicant's present invention, as recited in claim 18, is not obvious in view of the references relied upon by the Examiner. Reconsideration and a withdrawal of the Examiner's 103 rejection of claim 18 with respect to Drechsler, Canfield and Ballou are hereby respectfully requested.

10. The Examiner's 103 Rejection of Claim 19

Over Drechsler in view of Ballou and Pinney, Jr.

Claim 19 stands rejected under 35 USC 103 as being unpatentable over Drechsler in view of Ballou and Pinney, Jr. This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

For the same reasons as those set forth above, applicant's present invention, as recited in claim 19 is not obvious in view of the cited references either alone or when combined. As applicant has pointed out

above, Drechsler and Ballou do not teach, suggest or disclose the present invention, alone or when combined. Furthermore, the Examiner's reliance on Pinney, Jr. does not arrive at the applicant's present invention for the reasons stated above. The combinations of references cited by the Examiner fail to teach, suggest or disclose the applicant's present invention.

For the above reasons, the applicant's present invention is not taught suggested or disclosed by the combination of Drechsler with Ballou and even with the further addition of the Pinney, Jr. reference.

Reconsideration and a withdrawal of the Examiner's 103 rejection with respect to claim 19 is hereby respectfully requested.

11. The Double Patenting Rejection of Claims 1-28.

Claims 1-28 stand rejected in view of the doctrine of obviousness-type double patenting in regard to claims 1-5 of US Patent 5,894,677. This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

Applicant notes that upon the indication of allowable subject matter, applicant will file a terminal disclaimer to overcome this rejection.

12. The Double Patenting Rejection of Claims 29-30.

Claims 29-30 stand rejected in view of the doctrine of obviousness-type double patenting in regard to claims 1-5 of U.S. Patent 5,894,677, in view of Drechsler. This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection are hereby respectfully requested.

Applicant notes that upon the indication of allowable subject matter, applicant will file a terminal disclaimer to overcome this rejection. Furthermore, for the reasons set forth above, applicant notes the distinctions between the applicant's present invention and the disclosure in Drechsler.

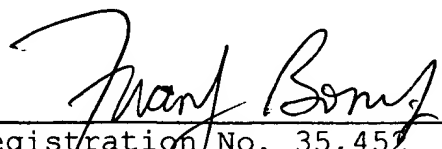
CONCLUSION

For the above reasons, the applicant's present invention is distinguishable over, and is not anticipated by, nor obvious in view of, the references cited by the Examiner. Reconsideration and a withdrawal of all outstanding objections and rejections is hereby respectfully requested, and early allowance of the pending claims is earnestly solicited.

If necessary an appropriate extension of time to respond is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required to Patent Office Deposit Account No. 05-0208.

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APPENDIX A

a' This is a continuation-in-part application of co-
pending Application Serial No. 08/676,497 filed on
July 8, 1996, issued on April 20, 1999 as U.S. Patent
No. 5,894,677, said application being incorporated
herein by reference.

APPENDIX B

1. A measuring tape for measuring the distance between a first point and a second point comprising a housing having a blade outlet and a blade hub centrally located inside said housing,

a flexible elongated blade having one fixed end connected to said blade hub and coiled into a roll around said blade hub, and having a free end extending from said housing through said blade outlet, and

a²

a tab fixed to the free end of the blade for temporarily and removably hooking the free end of the blade to the first point, said tab extending in a plane perpendicular to the blade in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade.

14. A ruler for measuring the distance from a reference point to a second point comprising

a base having a reference end and an opposed end, said base comprising an elongated rectangular-shaped flat material, and having two sets of numbers imprinted on the base which correspond to units of measure,

a³

the first set of numbers imprinted along a first lengthwise edge of the base and positioned on the base such that the numbers are arranged in upright position

one after the other and increase in value when read from the reference end toward the opposed end, and

the second set of numbers imprinted along a second lengthwise edge of the base and positioned on the base such that the numbers are arranged one after the other in upside-down position, relative to the first set of numbers, and increase in value when read from the reference end toward the opposed end,

wherein one set of numbers is legible right-side-up whether measuring from right to left when the point being measured from is located to the right of the point being measured to or whether measuring from left to right when the point being measured from is located to the left of the point being measured to;

further comprising a tab fixed to the free end of the blade for temporarily and removably hooking the free end of the blade to the first point, said tab having a planar surface extending in at least two directions transverse to a lengthwise edge of the blade at the free end of the blade.

17. A measuring tape for measuring the distance between a first point and a second point consisting essentially of

a housing having a blade outlet and a blade hub centrally located inside said housing,

a flexible elongated blade having one fixed end connected to said blade hub and coiled into a roll around the blade hub, and having a free end extending from the housing through the blade outlet,

the blade having two sets of indicia imprinted thereon which correspond to units of measure,

the first set of indicia including numbers imprinted along a first lengthwise edge portion of the blade and positioned on the blade such that the numbers are arranged in upright position one after the other and increase in value when read from the free end of the blade toward the fixed end of the blade,

the second set of indicia including numbers imprinted along a second lengthwise edge portion of the blade and positioned on the blade such that the numbers are arranged in upside-down position one after the other, relative to the first set of numbers, and increase in value when read from the free end of the blade toward the fixed end of the blade, and

a removable tab fixed to free end of the blade for temporarily and removably hooking the free end of the blade to the first point,

wherein one of the sets of numbers is legible right-side-up whether the free end of the blade is positioned at the first point or the second point.

Q4
cont.

95 22. A tab extension for temporarily and removably hooking the free end of a blade of a measuring tape to the point being measured from, the measuring tape comprising a housing having a blade outlet and a blade hub centrally located inside said housing, a flexible elongated blade having one fixed end connected to said blade hub and coiled into a roll around said blade hub, and having a free end extending from said housing through said blade outlet, and a tab fixed to free end of the blade for temporarily and removably hooking the free end of the blade to the first point, the tab extension comprising

a connection portion having means for removably connecting the tab extension to the tab fixed to the free end of the blade of the measuring tape, and

a hooking device portion extending in at least two directions to a lengthwise edge of the blade of the measuring tape in a plane perpendicular to the blade of the measuring tape at the free end of the blade when the tab extension is connected to the tab of the measuring tape.

26. A ruler for measuring the distance from a first point to a second point comprising

96 a base portion having a left end and a right end, the base comprising an elongated rectangular-shaped

flat material, and

a set of numbers imprinted on the base which corresponds to units of measure,

the set of numbers being positioned on the base such that the numbers are arranged in upright position one after the other and increase in value when read from the right end of the base to the left end of the base,

wherein the set of numbers is legible right-side-up when measuring from right to left;

further comprising a tab fixed to at least one end of said flat material for temporarily and removably hooking an end of said flat material to the first point, said tab having a planar surface extending in at least two directions transverse to a lengthwise edge of the flat material at at least one end of said flat material.

29. The measuring tape recited in claim 2, said first and second set of indicia being imprinted on two opposed surfaces of said blade.